

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

ANDREW JOHN STANKEVICH

PLAINTIFF

V.

CIVIL ACTION NO. 3:23-CV-356-KHJ-BWR

MISSISSIPPI COLLEGE SCHOOL OF LAW

DEFENDANT

ORDER

Before the Court are Defendant Mississippi College School of Law's [17] Motion to Dismiss and Plaintiff Andrew John Stankevich's [22] Motion to Allow for Supplemental Pleading. Stankevich's proposed pleading does not "set[] out any transaction, occurrence, or event that happened after the date of the pleading to be supplemented." Fed. R. Civ. P. 15(d). Instead, it seeks to amend his original complaint under Rule 15(a)(1) and add a new claim. *See* [22-1] at 1. The Court therefore construes the motion for supplemental pleading as a motion to amend.

Stankevich properly amended his complaint as a matter of course within 21 days of MC's motion to dismiss. *See* Fed. R. Civ. P. 15(a)(1). Even though Stankevich did not need permission to make the filing, he still filed a motion. [22]. "When, as in this case, a plaintiff who has a right to amend nevertheless petitions the court for leave to amend, the court should grant the petition." *Zaidi v. Ehrlich*, 732 F.2d 1218, 1220 (5th Cir. 1984). The Court, therefore, grants his motion. The amended pleading now serves as the operative complaint. *See* [22-1]. Accordingly,

the Court dismisses MC's [17] Motion to Dismiss as moot because it no longer addresses the operative complaint.

As it stands, Stankevich's amended complaint does not incorporate the claims in the original complaint. *See* [22-1]. But given Stankevich's pro se status, the Court will allow him one last chance to amend and plead his best case.

In repleading his complaint, the Court orders Stankevich to allege facts going to each element of each claim, rather than requiring MC and the Court to sift through voluminous attachments. Stankevich's amended complaint must only expound on the claims and arguments he has raised so far: breach of contract; tortious interference with prospective advantage; violations of the ADA; and tolling for psychiatric disability, latent injury, and wrong-court filing.

Accordingly, the Court GRANTS Stankevich's [22] Motion to Amend and DENIES as moot MC's [17] Motion to Dismiss. The Court also allows Stankevich 21 days to file a third amended complaint. He must submit the filing on or before December 7, 2023.

SO ORDERED, this 16th day of November, 2023.

s/ *Kristi H. Johnson*
UNITED STATES DISTRICT JUDGE